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C O N F I D E N T I A L SECTION 01 OF 02 BANGKOK 002418

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SUBJECT: THAILAND: RUBBER SAPLING VERDICT BOUNCES  
CORRUPTION INDICTMENT OUT OF COURT

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Classified By: DCM James F. Entwistle, reasons 1.4 (b, d)

SUMMARY AND COMMENT

1. (C) On September 21, the Supreme Court acquitted all 44 defendants -- including five former cabinet ministers under fugitive former PM Thaksin -- of corruption and malfeasance charges stemming from a 2003 rubber sapling procurement project. Newin Chidchob, godfather of government coalition partner Phumjai Thai, was the most prominent public figure named in the case. The case was initiated by the Council for National Security, the interim government appointed following the 2006 coup, and the rubber sapling project was generally cited by the coup plotters as one of the most egregious examples of the type of crippling corruption that necessitated the coup in the first place. Thaksin publicly trumpeted the court decision as proof that the 2006 coup's stated rationale had no merit.

2. (C) Comment: In the wake of the Supreme Court's judgment, there has been a rush by politicians and analysts of all stripes to frame the verdict as manifest evidence of the politicization of the judiciary system, but the opposite may well be true: the evidence in this case was weak enough that the Office of Attorney General (OAG) refused to endorse/prosecute it in March 2008, after which point the National Counter Corruption Commission (NCCC) proceeded on its own. The court's ruling essentially vindicated the OAG. End Summary and Comment.

WHERE THE RUBBER MEETS THE ROAD TO JAIL (OR NOT)

3. (SBU) The so-called "rubber sapling case" originated in a 2003 Thaksin-era government scheme to distribute 90 million rubber saplings to farmers in 36 northeastern and northern provinces (Note: Thaksin's primary base of political support was -- and still is -- in the north and northeast. End Note.) The plan was initiated by current Phumjai Thai figurehead Newin Chidchob, who at the time served as the Deputy Agriculture Minister. The lucrative contract to implement the project was quietly and opaquely awarded to a

politically well connected Thai firm -- the CP Group -- and accusations of collusion and corruption quickly followed suit.

14. (C) By the time of the 2006 coup, the rubber sapling project had developed into a kind of metaphoric catchall for the alleged waste and mismanagement of the Thaksin administration, the time-honored justification for coups in Thailand. Thaksin was toppled, the argument went, in order to protect the country from corruption on that scale down the road. As one of Thaksin's closest allies and the architect of the scheme, there seemed little doubt that Newin's head would be the biggest to roll.

#### MAKING THE CASE (POORLY)

15. (SBU) One of the post-coup interim government's first acts was to establish the Assets Examination Commission (AEC). The AEC was charged with investigating accusations of Thaksin-era corruption, and to no one's surprise, the AEC quickly took aim at the rubber sapling project. Beginning in 2007, the AEC started investigating the sapling project bidding process and steadily worked on assembling its case. By February 18, 2008, the AEC felt it had completed its work, and referred the case to the Office of the Office of the Attorney General (OAG).

16. (SBU) The OAG took issue with the quality of the evidence presented by the AEC, however, and on March 14, 2008 the OAG's office asked the AEC to expand its investigation, interview more witnesses, and strengthen its case. In short, the OAG felt the case was full of holes and needed to be tightened up before bringing it to trial. The AEC disagreed,

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and exercised its right to ignore the OAG's advice, opting instead to forward the case as it stood to the Supreme Court.

17. (SBU) By the time the rubber sapling case landed on the desk of the Supreme Court's Criminal Division for Persons Holding Political Positions on August 6, 2008, the AEC's mandate had elapsed, and the AEC had been replaced by the National Anti-Corruption Commission (NACC) as the official custodian of the rubber sapling case. The Supreme Court accepted the case on September 23, 2008; 44 defendants were officially charged with collusion in conjunction with the rubber sapling procurement. In addition to Newin, four other former cabinet members from the Thaksin administration were also officially charged with collusion: ex-Deputy PM Somkid Jatusripitak; ex-Agricultural Minister Sora-at Klinprathum; ex-Commerce Minister Adisai Photaramik; and ex-Deputy Finance Minister Warathep Rattanakorn. The other 39 defendants were lower-level bureaucrats and representatives of private firms involved in the bidding process.

#### THE VERDICT...SURPRISING, BUT NOT UNEXPECTED

18. (SBU) On September 21, the Supreme Court announced the verdict: all 44 defendants were found innocent on all charges. All but one of the defendants were on hand to hear the verdict, with Adisai having taken the precaution of leaving the country beforehand to insure against the possibility of a jail sentence (Note: The court revoked the warrant for his arrest following the innocent verdict. End Note.)

19. (SBU) No one on hand was more ecstatic than Newin, who faced the possibility of several years of prison time for violating procurement guidelines, the Criminal Code and other laws. Perhaps just as importantly from his perspective, a guilty verdict would have significantly reduced his political influence at arguably the apex of his career. Shedding tears, Newin gushed that all he had left to do was to serve

his monarchy loyally.

¶10. (C) Cynicism by the many who assume the verdict related more to Newin's alliance with the current government than any facts of the case aside, some of our contacts saw this verdict coming for legal, legitimate reasons. Prinya Thaewanarumitkul, the Vice Rector of Thammasat University, told us that the prosecution mounted a flimsy case based almost entirely on hearsay. Of all the Thaksin-era corruption cases, Prinya felt this was the weakest, noting that the AEC compounded matters by naming too many people as defendants in the case. Though he understood the skepticism with which many people greeted the verdict, he felt that the judges appointed to the Supreme Court body which decided the case were beyond reproach. In his view, this was an example of good judges making the right determination on a bad case.

¶11. (C) Not surprisingly, Supachai Jaismut, the Deputy government spokesman and FON (friend of Newin), told us he believed the case was weak and had expected an acquittal all along. Interestingly, Supachai also told us that Newin knew of the outcome ahead of time, though he declined to explain precisely how.

¶12. (C) Klanarong Chantik, a member of the NCCC and former member of the AEC defensively took issue with complaints about the AEC and NCCC's handling of the case. Klanarong told us: "the AEC and the NCCC left every stone unturned." The AEC and NCCC, he added, had thoroughly investigated the case and provided exhaustive legal and factual backing to support it. He maintained that the Supreme Court's verdict should in no way be used to impugn the AEC and NCCC's work, and added that in his mind, the case was closed, and it was time to move on.

JOHN